

Standard Operating Procedure for Approval of New Program Submittals and Program Modification Submittals

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Control Board

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1. Introduction

It is the responsibility of the State Water Resources Control Board (SWRCB) and the Regional Water Quality Control Boards (RWQCBs) to implement and enforce the National Pretreatment Program for controlling discharges of toxic and/or hazardous pollutants into Publicly Owned Treatment Works (POTWs). The Pretreatment Program is administered through the National Pollutant Discharge Elimination System (NPDES) permit program. The pretreatment regulations are found in 40 Code of Federal Regulations (CFR) Part 403. The California Code of Regulations (CCR), Sections 2233 and 2235.3 contain pretreatment terms and conditions that shall be included in Waste Discharge Requirements (WDRs).

By a Memorandum of Agreement (MOA) between U.S. EPA and the State, dated September 22, 1989, the State assumed primacy over administration of the Pretreatment Program in California. The MOA requires that its provisions be implemented through this Administrative Procedures Manual (APM).

This standard operating procedure (SOP) includes requirements for approving new pretreatment programs as well as approving modifications to existing pretreatment programs. The approval process for both substantial and non-substantial modifications is discussed. Additionally, this SOP clarifies which actions in the approval process should be completed by the RWQCB and which actions should be completed by the SWRCB. The review of a pretreatment program submittal and the review of proposed pretreatment modifications are outside the scope of this SOP.

Approval of a new pretreatment program or modification to an existing pretreatment program may result in the need to revise the requirements in the NPDES or WDR permit. Revisions to the permit should be completed as directed in the APM.

2. Identification of POTWs Requiring a Pretreatment Program

In accordance with 40 CFR 403.8(a), a pretreatment program shall be developed and approved pursuant to the procedures in 40 CFR 403.11 for any POTW with a total design flow greater than five million gallons per day (mgd) if it receives pollutants from industrial users that pass through or interfere with POTW operation or if it has industrial users subject to federal categorical Pretreatment Standards.

In accordance with CCR, Sections 2233 and 2235.3, a pretreatment condition shall be included in non-NPDES and NPDES WDRs for all POTWs with an average dry weather flow greater than five mgd. This condition requires that these POTWs establish and enforce an adequate pretreatment program adopted by the RWQCB but not necessarily approved pursuant to the procedures in 40 CFR 403.11.

A POTW with a design flow of five mgd or less may be required to develop and implement a pretreatment program if RWQCB staff finds that the POTW's influent from industrial users causes treatment process upsets, effluent violations, or sludge contamination. In this case, the pretreatment program may either be established pursuant to the procedures of 40 CFR 403.11 or as one of the RWQCB monitored programs described later in this section.

3. Approval of a New Pretreatment Program Submittal

The RWQCB is the Approval Authority and is responsible for the review and approval of new pretreatment programs in accordance with 40 CFR 403.11. The RWQCB staff should review any new pretreatment program submittal to ensure it meets the requirements in 40 CFR Part 403. Additional information on reviewing a pretreatment program submittal may be found in EPA's *Procedures Manual for Reviewing a POTW Pretreatment Program Submission* (1983).¹

The APM requires the RWQCB staff to make a preliminary determination on the completeness of the POTW's program submittal within 60 days of receipt of the documents. If the program submittal is deficient, the RWQCB should notify the discharger, in writing, of the missing information as required in 40 CFR 403.9(f). This notification should clearly identify the deficiencies in the submittal and the means by which the discharger can complete the submittal.

If the RWQCB staff determine that the program submittal meets all requirements, the POTW should be notified. The APM requires the RWQCB staff to begin the public notice process, as discussed in Section 5 below, within 20 working days. The RWQCB will have 90 days from the date of public notice to review the submittal and determine compliance with the requirements of 40 CFR 403.8(b) and (f). The RWQCB may have an additional 90 days to complete the evaluation of the submittal if the public comment period is extended in accordance with 40 CFR 403.11(b)(1)(iii) or 40 CFR 403.11(b)(2). In no event shall the time for evaluation of the submittal exceed a total of 180 days from the date of public notice of a complete program submittal. Upon completion of the required public notification process, the APM states that RWQCB staff should take actions to ensure that the POTW formally adopts and implements the pretreatment program.

4. Modifications of Previously Approved Pretreatment Programs

On occasion, there may be a need to modify an existing pretreatment program, as identified by either the POTW or the RWQCB. These modifications may be driven by a variety of factors such as, but not limited to, a change in conditions at the POTW, a recalculation of local limits (or reallocation of the maximum allowable industrial loading), changes to federal pretreatment regulations, or a change in the industrial user base discharging to the POTW. Substantial modification is defined in 40 CFR 403.18(b). The table below summarizes the differences between a substantial and a non-substantial modification.

¹ At the time of the writing of this SOP, this guidance document is currently being updated. The reviewer should use the latest version of this guidance.

Substantial	Non-Substantial
<ul style="list-style-type: none"> • Relaxes POTW legal authorities • Relaxes local limits that increases total industrial loadings • Changes to POTW's control mechanism • Decreases in IU self-monitoring and reporting • Decreases in compliance monitoring and inspection frequencies • Changes to confidentiality procedures • Designated as substantial by the RWQCB 	<ul style="list-style-type: none"> • Changes reflecting revisions to 40 CFR Part 403 • Correcting typographical errors • Changes to POTW's local limit for pH • Reallocation of MAIL • Making limits more stringent • Changes in personnel • Changes in fee structure • Anything that makes a program more stringent

For substantial modifications, the POTW should submit in writing to the RWQCB the rationale for the substantial modification, detailed description of the proposed modification, and any other documents considered necessary by the RWQCB staff. These documents should be reviewed using the same program review procedures described in Section 3 above.

Non-substantial modifications should be reviewed using the procedures found in 40 CFR 403.18(b)(2). The POTW is required to notify the RWQCB at least 45 days prior to implementation of a non-substantial modification.² However, the RWQCB may notify the POTW within 90 days of the proposed non-substantial modification submittal that the RWQCB determines it is actually a substantial modification, and the review should proceed using the substantial modification review procedures stated above.

5. Public Notice Requirements Summary

In accordance with 40 CFR 403.11(b), the RWQCB staff is required to circulate a public notification announcing the opportunity for public review and public hearing of either the pretreatment program or the proposed changes to the pretreatment program. This notification should be mailed to federal and State fish, shellfish, and wildlife agencies. Additionally, anyone requesting individual notice should also be mailed a copy of this notification. The RWQCB is also required to publish the notice in the largest daily publication in the discharger's jurisdiction. The newspaper publication should indicate where the program submittal or proposed changes can be reviewed. A minimum 30-day period for written comments is required by 40 CFR 403.11(b)(i)(B).

² The current APM requires the POTW to submit a non-substantial modification at least 30 days prior to implementation. However, the federal regulations in 40 CFR 403.18(d) are more stringent and require the POTW to submit proposed a proposed non-substantial modification at least 45 days prior to implementation.

If the SWRCB or U.S. EPA provides written objections during the comment period, the pretreatment program proposed modification should not be approved. A copy of any objections will be mailed by RWQCB staff to the discharger and all interested parties. Unless U.S. EPA and/or the SWRCB provide written retractions of their objections to the RWQCB within 90 days after public notice, the objections will govern, and approval of the pretreatment program will be denied by the RWQCB.